

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 83

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO TAXATION OF PERSONAL PROPERTY; AMENDING SECTION 63-602KK, IDAHO CODE, TO REVISE THE FISCAL YEAR THAT IS USED TO CALCULATE WHEN THE EXEMPTION TAKES EFFECT AND TO PROVIDE ADDITIONAL PROCEDURES FOR APPLICATION FOR THE EXEMPTION AND RECOVERY OF THE EXEMPTION THAT WAS IMPROPERLY CLAIMED OR APPROVED; AMENDING SECTION 63-802, IDAHO CODE, TO CORRECT THE CALCULATION OF THE THREE PERCENT PROPERTY TAX BUDGET LIMITATION RELATING TO REIMBURSEMENT MONEYS FOR EXEMPT PERSONAL PROPERTY; AMENDING SECTION 63-803, IDAHO CODE, TO CORRECT THE DEFINITION OF "TAXABLE VALUE" OF PROPERTY ON THE BASE ASSESSMENT ROLL OF A REVENUE ALLOCATION AREA; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 63-602KK, Idaho Code, be, and the same is hereby amended to read as follows:

63-602KK. PROPERTY EXEMPT FROM TAXATION – CERTAIN PERSONAL PROPERTY. (1) On and after January 1, 2009, subject to subsection (2) of this section, each taxpayer's personal property, located in the county, which is not otherwise exempt and which is not operating property, shall be exempt to the extent of one hundred thousand dollars (\$100,000). For the purposes of this section, a taxpayer includes two (2) or more individuals using the property in a common enterprise or a related group of two (2) or more organizations when the individuals or organizations are within a relationship described in section 267 of the Internal Revenue Code, as defined in section 63-3004, Idaho Code.

(2) This section shall not take effect on January 1, 2009, if on September 1, 2008, the state controller certifies that the receipts to the general fund for the fiscal year ending June 30, 2008, have not exceeded receipts to the general fund from the previous fiscal year by five percent (5%) or more. This section shall take effect on January 1 of the year following the first year when the state controller certifies to the state tax commission that receipts to the general fund for the fiscal year just ended have exceeded the receipts to the general fund during the ~~previous~~ fiscal year 2008 by five percent (5%) or more.

(3) No later than the third Monday of November of each year, the county clerk of each county shall certify to the state tax commission the amount of exemption from property taxes under subsection (1) of this section, in that county for that year. The certification shall identify the property receiving tax reductions, the value of the property, the property's location, the amount of the tax levy applicable to personal property in the location, and the tax before and after the exemption allowed in subsection (1) of this section. The certification shall be in the form prescribed by the state tax commission and shall include such additional information as

the commission may require by rule as needed to implement the purpose of this section. The certification shall be reviewed and if necessary, corrected by the state tax commission.

(4) (a) Subject to the limitations of this section, the state tax commission shall reimburse from the amount appropriated for personal property tax replacement in section 63-3638, Idaho Code, the county treasurer of each county for the reduction on the certification provided in subsection (3) of this section. The county treasurer shall reimburse from the amount received to each taxing district within the county an amount in proportion to the amount of reduction shown on the certification in subsection (3) of this section as corrected. The amount that would otherwise be attributable to tax revenues derived from tax levies on ~~taxable~~ personal property exempted by this section within an existing revenue allocation area as defined in section 50-2903(15), Idaho Code, ~~on or before January 1, 2009,~~ shall be paid directly by the county treasurer to such public body or agency entitled ~~therein~~ thereto, equal to the amounts that would have been distributed in accordance with the formula for such distribution set forth in section 50-2908, Idaho Code.

(b) The state tax commission shall pay one-half (1/2) of the reimbursement provided in this section no later than December 20 of each year, and the second one-half (1/2) shall be paid by no later than June 20 of the following year. The money received by the county tax collector under the provisions of this section may be considered by counties and other taxing districts and budgeted against at the same time, and in the same manner, and in the same year as revenues from taxation. The total amount paid to the county treasurers shall not exceed the amount certified to the state tax commission under subsection (3) of this section.

(c) For purposes of the limitation provided by section 63-802, Idaho Code, moneys received from distributions pursuant to section 63-3638, Idaho Code, as property tax replacement for the taxable value of property exempt from taxation pursuant to this section shall be treated as property tax revenues.

(5) Nothing contained in this section shall affect the taxation of forest lands or forest products pursuant to chapter 17, title 63, Idaho Code, or the taxation of the net profits of mines pursuant to chapter 28, title 63, Idaho Code.

(6) A taxpayer need only make application for the exemption in this section once, as long as all of the following conditions are met:

(a) The taxpayer has received the exemption during the previous year as a result of him making a valid application as defined in this section.

(b) The amount of the exemption allowed by this section is more than the maximum value of personal property owned by the taxpayer.

(c) The taxpayer has not made purchases of personal property that would cause the aggregate value of the personal property owned by the taxpayer to exceed the maximum amount allowed as an exemption by this section.

(d) For every year the taxpayer claims the exemption, he shall sign an affidavit on a form provided by the state tax commission, reciting the averments set forth in this section. A fraudulent claim set in an affidavit shall subject the taxpayer to a fine not in excess of ten thousand dollars (\$10,000) in addition to other penalties set forth in this chapter.

(7) Recovery of property tax exemptions allowed by this section but improperly claimed per affidavit:

(a) Upon discovery of evidence, facts or circumstances indicating any exemption allowed by this section was improperly claimed, the county assessor shall decide whether the exemption claimed should have been allowed, and if not, notify the board of county commissioners, at which time the board may waive a recovery of the property tax and notify such taxpayer in writing.

(b) The assessment and collection of the recovery of property tax must begin within the seven (7) year period beginning on the date the assessment notice reflecting the improperly claimed exemption was required to be mailed to the taxpayer.

(c) The taxpayer may appeal to the board of tax appeals the decision by the board of county commissioners to assess the recovery of property tax within thirty (30) days of the date the county assessor sent the notice to the taxpayer pursuant to this section.

(d) For purposes of calculating the tax, the amount of the recovered property tax shall be for each year the exemption allowed by this section was improperly claimed or approved, up to a maximum of seven (7) years. The amount of the recovery of property tax shall be calculated using the product of the amount of exempted value for each year multiplied by the levy for that year plus costs, late charges and interest for each year at the rates equal to those provided for delinquent property taxes during that year. In cases of fraud, the fine set forth in subsection (6)(d) of this section shall be assessed for each annual affidavit filed.

(e) Any recovery of property tax shall be due and payable no later than the date provided for property taxes in section 63-903, Idaho Code, and if not timely paid, late charges and interest, beginning the first day of January in the year following the year the county assessor sent the notice to the taxpayer pursuant to this section, shall be calculated at the current rate provided for property taxes.

(f) Recovered property taxes shall be billed, collected and distributed in the same manner as property taxes, except each taxing district or unit shall be notified of the amount of any recovered property taxes included in any distribution.

(g) Thirty (30) days after the taxpayer is notified, as provided in subsection (7)(a) of this section, the assessor shall record a notice of intent to attach a lien. Upon the payment in full of such recovered property taxes prior to the attachment of the lien as provided in subsection (7)(h) of this section, or upon the successful appeal by the taxpayer, the county assessor shall record a rescission of the intent to attach a lien within seven (7) business days of receiving such payment or within seven (7) business days of the county commissioners' decision granting the appeal.

(h) Any unpaid recovered property taxes shall become a lien upon the taxpayer's personal property in the same manner as provided for property taxes in section 63-206, Idaho Code, except such lien shall attach as of the first day of January in the year following the year the county treasurer sent the notice to the taxpayer pursuant to this section.

(i) For purposes of the limitation provided by section 63-802, Idaho Code, moneys received pursuant to this subsection as recovery of property tax shall be treated as property tax revenue.

SECTION 2. That Section 63-802, Idaho Code, be, and the same is hereby amended to read as follows:

63-802. LIMITATION ON BUDGET REQUESTS – LIMITATION ON TAX CHARGES – EXCEPTIONS. (1) Except as provided in subsection (3) of this section for tax year 1995, and each year thereafter, no taxing district shall certify a budget request for an amount of property tax revenues to finance an annual budget that exceeds the greater of:

(a) The dollar amount of property taxes certified for its annual budget for any one (1) of the three (3) tax years preceding the current tax year, whichever is greater, ~~plus the dollar amount of moneys received pursuant to section 63-3638(12), Idaho Code,~~ for the past tax year, which amount may be increased by a growth factor of not to exceed three percent (3%) plus the amount of revenue that would have been generated by applying the levy of the previous year, not including any levy described in subsection (4) of this section, or any school district levy reduction resulting from a distribution of state funds pursuant to section 63-3638(10), Idaho Code, to any increase in market value subject to taxation resulting from new construction or change of land use classification as evidenced by the value shown on the new construction roll compiled pursuant to section 63-301A, Idaho Code; and by the value of annexation during the previous calendar year, as certified by the state tax commission for market values of operating property of public utilities and by the county assessor; or

(b) The dollar amount of property taxes certified for its annual budget during the last year in which a levy was made; or

(c) The dollar amount of the actual budget request, if the taxing district is newly created except as may be provided in subsection (1)(h) of this section; or

(d) In the case of school districts, the restriction imposed in section 33-802, Idaho Code; or

(e) In the case of a nonschool district for which less than the maximum allowable increase in the dollar amount of property taxes is certified for annual budget purposes in any one (1) year, such a district may, in any following year, recover the foregone increase by certifying, in addition to any increase otherwise allowed, an amount not to exceed one hundred percent (100%) of the increase originally foregone. Said additional amount shall be included in future calculations for increases as allowed; or

(f) In the case of cities, if the immediately preceding year's levy subject to the limitation provided by this section, is less than 0.004, the city may increase its budget by an amount not to exceed the difference between 0.004 and actual prior year's levy multiplied by the prior year's market value for assessment purposes. The additional amount must be approved by sixty percent (60%) of the voters voting on the question at an election called for that purpose and held on the date in May or November provided by law, and may be included in the annual budget of the city for purposes of this section; or

(g) A taxing district may submit to the electors within the district the question of whether the budget from property tax revenues may be increased beyond the amount authorized in this section, but not beyond the levy authorized by statute. The additional amount must be approved by sixty-six and two-thirds percent (66 2/3%) or more of the voters voting on the question at an election called for that purpose and held on the May or November dates provided by section 34-106, Idaho Code. If approved by the required minimum sixty-six and two-thirds percent (66 2/3%) of the voters voting at the election, the new budget amount shall be the base budget for the purposes of this section; or

(h) When a nonschool district consolidates with another nonschool district or dissolves and a new district performing similar governmental functions as the dissolved district

forms with the same boundaries within three (3) years, the maximum amount of a budget of the district from property tax revenues shall not be greater than the sum of the amounts that would have been authorized by this section for the district itself or for the districts that were consolidated or dissolved and incorporated into a new district; or

(i) In the instance or case of cooperative service agencies, the restrictions imposed in sections 33-315 through 33-318, Idaho Code.

(2) In the case of fire districts, during the year immediately following the election of a public utility or public utilities to consent to be provided fire protection pursuant to section 31-1425, Idaho Code, the maximum amount of property tax revenues permitted in subsection (1) of this section may be increased by an amount equal to the current year's taxable value of the consenting public utility or public utilities multiplied by that portion of the prior year's levy subject to the limitation provided by subsection (1) of this section.

(3) No board of county commissioners shall set a levy, nor shall the state tax commission approve a levy for annual budget purposes which exceeds the limitation imposed in subsection (1) of this section, unless authority to exceed such limitation has been approved by a majority of the taxing district's electors voting on the question at an election called for that purpose and held pursuant to section 34-106, Idaho Code, provided however, that such voter approval shall be for a period of not to exceed two (2) years.

(4) The amount of property tax revenues to finance an annual budget does not include revenues from nonproperty tax sources, and does not include revenue from levies that are voter approved for bonds, override levies or supplemental levies, plant facilities reserve fund levies, school emergency fund levies or for levies applicable to newly annexed property or for levies applicable to new construction as evidenced by the value of property subject to the occupancy tax pursuant to section 63-317, Idaho Code, for the preceding tax year.

SECTION 3. That Section 63-803, Idaho Code, be, and the same is hereby amended to read as follows:

63-803. CERTIFICATION OF BUDGETS IN DOLLARS. (1) Whenever any taxing district is required by law to certify to any county treasurer, county auditor, county assessor, county commissioners or to any other county officer, any property tax levy, upon property located within said district, such certification shall, notwithstanding any other provision of the law applicable to any such district, be made at the time and in the manner hereinafter provided.

(2) The county auditor shall inform each of the taxing districts within his county of the taxable value of that district as soon as such value is known to the auditor, whether the value comes from the appraisal and assessment of real and personal property, or from allocation of the taxable value of operating property, or from other sources.

(3) Using the taxable value of the district, the council, trustees, board or other governing body of any taxing district shall certify the total amount required from a property tax upon property within the district to raise the amount of money fixed by their budget as previously prepared or approved. The amount of money so determined shall be certified in dollars to the appropriate county commissioners. Any taxing unit, except regional airport authorities, located in more than one (1) county shall divide its dollar budget for certification to the separate counties by multiplying the amount of such budget by a fraction, the numerator of which shall be the total taxable value of all property in such taxing unit within the county to which such certification is to be made, and the denominator of which shall be the total taxable value of property in such taxing unit in all such counties. Budget certification to the

1 participating counties of regional airport authorities shall be made in the manner prescribed  
 2 in section 21-807(10), Idaho Code. Taxable value shall be certified by the county auditor of  
 3 each affected county to such taxing unit and such certification shall be used in this formula.  
 4 Except as provided in section 33-805, Idaho Code, relating to school emergency fund levies,  
 5 the certification to the county commissioners required in this section shall be made not later  
 6 than the Thursday prior to the second Monday in September, unless, upon application therefor,  
 7 the county commissioners grant an extension of not more than seven (7) working days. After  
 8 receipt of this certification, the county commissioners shall make a tax levy as a percent of  
 9 taxable value of all property in the taxing district, which when applied to the tax rolls, will  
 10 meet the budget requirements certified by such taxing districts.

11 (4) Except as provided in subsection (1)(a) through (e) of section 50-2908, Idaho Code,  
 12 for the purpose of this section, "taxable value" shall mean the portion of the equalized assessed  
 13 value, less any exemptions, except the exemption for personal property in section 63-602KK,  
 14 Idaho Code, and the value that exceeds the value of the base assessment roll for the portion  
 15 of any taxing district within a revenue allocation area of an urban renewal district, located  
 16 within each taxing district which certifies a budget to be raised from a property tax levy. When  
 17 the county auditor is notified of revenues sufficient to cover expenses as provided in section  
 18 50-2903(5), Idaho Code, taxable value shall also include the value that exceeds the value of  
 19 the base assessment roll for the portion of any taxing district within a revenue allocation area.  
 20 For each taxing district, taxable value shall include the value from the property and operating  
 21 property rolls for the current year and subsequent and missed property rolls for the prior year or  
 22 the best estimate of the subsequent and missed property rolls for the current year.

23 SECTION 4. An emergency existing therefor, which emergency is hereby declared to  
 24 exist, this act shall be in full force and effect on and after its passage and approval, and  
 25 retroactively to January 1, 2009.